

ORIGINAL

**GENERAL ADMINISTRATIVE ORDER
OF THE INDIANA UTILITY REGULATORY COMMISSION
2016-3**

WHEREAS, Indiana Code § 8-1-26-23(a) establishes the Underground Plant Protection Advisory Committee (“Advisory Committee”); and

WHEREAS, Ind. Code § 8-1-26-23(g) requires the Pipeline Safety Division (“Division”) of the Indiana Utility Regulatory Commission (“Commission”) to investigate alleged violations of Ind. Code ch. 8-1-26 and forward its findings to the Advisory Committee; and

WHEREAS, Ind. Code § 8-1-26-23(h) provides that the Advisory Committee shall act in an advisory capacity to the Commission concerning the implementation and enforcement of Ind. Code ch. 8-1-26; and

WHEREAS, under Ind. Code § 8-1-26-23(h), the Advisory Committee may make recommendations regarding penalties with respect to persons that the Division has found to violate Ind. Code ch. 8-1-26; and

WHEREAS, under Ind. Code § 8-1-26-23(k), upon receiving a recommendation from the Advisory Committee, and after notice and opportunity for a public hearing, the Commission shall: uphold or reverse the finding of a violation by the Division, approve or disapprove each recommendation of the Advisory Committee, and collect any civil penalties and deposit the penalties in the underground plant protection account established by Ind. Code § 8-1-26-24(a); and

WHEREAS, the Commission desires to provide procedural guidance to persons requesting a public hearing under Ind. Code § 8-1-26-23(k);

WHEREAS, the Commission previously issued guidance in General Administrative Order (“GAO”) 2013-8 and has determined that information needs to be updated;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Guidelines regarding a public hearing involving findings of the Division, recommendations of the Advisory Committee, or both, attached to this General Administrative Order as Appendix A, and the service list attached to this General Administrative Order as Appendix B, are hereby adopted by the Commission and GAO 2013-8 is hereby superseded.

CAS

Carol A. Stephan, Commission Chair

Sarah E. Freeman

Sarah E. Freeman, Commissioner

James F. Huston

James F. Huston, Commissioner

Absent

Angela Rapp Weber, Commissioner

David E. Ziegner

David E. Ziegner, Commissioner

I hereby certify that the above is a true and correct copy of the order as approved.

Butterfly Webb acting for

Mary M. Becerra
Secretary to the Commission

Date: SEP 21 2016

General Administrative Order 2016-3 – Appendix A

Request for Public Hearing Under Indiana Code ch. 8-1-26 Guidelines

I. Request for Public Hearing.

- A. After receiving notice of the Underground Plant Protection Advisory Committee's ("Advisory Committee") recommendation to the Indiana Utility Regulatory Commission ("Commission") under Indiana Code § 8-1-26-23(h), a person, as defined by Ind. Code § 8-1-26-11, may request a public hearing under Ind. Code § 8-1-26-23(k) regarding the findings of the Pipeline Safety Division ("Division"), the recommendations of the Advisory Committee or both. In this appendix and in the proceeding, a person requesting a public hearing under Ind. Code § 8-1-26-23(h) shall be referred to as "Respondent."
- B. If a public hearing is not requested, the Commission, upon receiving a recommendation from the Advisory Committee, shall do the following, as applicable: uphold or reverse the finding of a violation by the Division, approve or disapprove the recommendation of the Advisory Committee, and collect any civil penalties and deposit the penalties in the underground plant protection account.
- C. All proceedings after a Request for Hearing is filed shall be governed by the Commission's Practice and Procedure Rules, which are located at 170 IAC 1-1.1, and by the guidance provided in this General Administrative Order.

II. Public Hearing Process.

- A. A Request for Public Hearing must be filed with the Commission within 30 days of receipt of the notice of the Advisory Committee's recommendation, as outlined in 170 IAC 5-5-3(f). Copies of the Request for Public Hearing shall be served on the Office of Utility Consumer Counselor ("OUCC"), the IURC's General Counsel on behalf of the Pipeline Safety Division, and the Advisory Committee. The Division and the Advisory Committee shall each be parties and designated as "Complainants" in all Requests for Public Hearing cases. The Service List for those parties is attached as **Appendix B**.
- B. An individual requesting a public hearing, such as a homeowner, may represent his or her own interest in accordance with 170 IAC 1-1.1-7(a). However, under 170 IAC 1-1.1-7(b), the interest of another person or entity (such as a company or partnership) may only be represented by an attorney who is admitted to practice before the Indiana Supreme Court and who is in good standing.

- G.** The Complainant Division's case-in-chief shall include, at a minimum, the following documents: all documents filed by the excavator and operator in the case and the Division's investigation summary report.
- H.** The Complainant Advisory Committee's case-in-chief shall include, at a minimum, the following documents: all documents filed by the excavator and operator in the case, the Division's investigation summary report, the Advisory Committee's recommendation form, and the Advisory Committee's penalty schedule.
- I.** The Respondent's case-in-chief shall include any testimony and exhibits that it intends to offer at the evidentiary hearing in support of its Request for Public Hearing, its requested relief, and any response to the Complainant Division's and Advisory Committee's cases-in-chief. Exhibits shall identify the filing party and be numbered sequentially (e.g. Respondent's Exhibit 1, Respondent's Exhibit 2, etc.). Any witness testimony to be offered into the record shall be made under oath or affirmation using the language described in 170 IAC 1-1.1-8(d).
- J.** At the evidentiary hearing conducted in the matter, the parties will be afforded an opportunity to offer their respective evidence into the record and to cross-examine the other parties' witnesses.

General Administrative Order 2016-3 – Appendix B

Service List

OUC

Office of Utility Consumer Counselor
Attn: Legal Division
PNC Center
115 West Washington St., Suite 1500 South
Indianapolis, IN 46204
infomgt@oucc.in.gov

Pipeline Safety Division

Indiana Utility Regulatory Commission
Attn: Office of General Counsel
PNC Center
101 W. Washington Street, Suite 1500 East
Indianapolis, IN 46204
jcomeau@urc.in.gov

Underground Plant Protection Advisory Committee

Indiana Underground Plant Protection Advisory Committee
c/o Indiana Utility Regulatory Commission
Attn: Legal Counsel
PNC Center
101 West Washington Street, Suite 1500 East
Indianapolis, IN 46204
dpoon@urc.in.gov